

An organization of packaging manufacturers which includes in its industry advertising references to brand name products merchandised in its packaging material may be exempt from Federal income tax under section 501(c)(6) of the Internal Revenue Code of 1954.

Advice has been requested whether an organization of manufacturers of a particular type of packaging material which engages in advertising the product in the manner described below qualifies for exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code of 1954.

The organization was formed to advance industrial progress in the use, manufacture, and distribution of a particular type of packaging material. Its primary activity is the conduct of advertising and promotional programs to increase the demand for the packaging material by inducing the general public to purchase products sold in such packages. Radio commercials and other advertisements feature the brand names of products which are marketed in packages produced by this industry. The manufacturer of the brand name products does not pay for having its products identified in the advertising. The advertising identifies the packaging material with products already accepted by consumers. It does not include the name or trademark of any packaging manufacturer. Emphasis is placed on the type of packaging.

Participation in the advertising programs is open to those who market their products in the packaging material regardless of whether such material is purchased from the organization's members.

Section 501(c)(6) of the Code exempts from Federal income tax nonprofit business leagues whose earnings do not inure to any private individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It also provides that the activities of the organization should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

Revenue Ruling 55-444, C.B. 1955-2, 258, holds that an organization formed to promote the business of a particular industry primarily by conducting a general advertising campaign to encourage the use of products and services of the industry as a whole is entitled to exemption from Federal income tax as a business league under section 501(c)(6) of the Code.

The subject organization's advertising activity promotes demand for the product of the industry as a whole and thus serves its members common business interest. The fact that nonmember manufacturers of brand name products receive gratuitous benefits is merely incidental to the purpose of the advertising, which is to increase market demand for the industry's packaging material. Such benefit does not result from the performance of particular services for individual persons within the intendment of section 1.501(c)(6)-1 of the regulations. Accordingly, the organization qualifies for exemption from Federal income tax under section 501(c)(6) of the Code.

An organization which considers itself within the scope of this Revenue Ruling must, in order to establish exemption under section 501(c)(6) of the Code, file Form 1024, Exemption Application, with the District Director of Internal Revenue for the internal revenue district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the regulations.